

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1156-MSW-E TCEQ ID: RN105496913 CASE NO.: 36267
RESPONDENT NAME: ALEJANDRO ROMO

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: North side of State Highway 204 near Ponta, Cherokee County.</p> <p>TYPE OF OPERATION: Scrap tire storage facility.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 4, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 40px;">TCEQ Attorney: Mr. Tommy Tucker Henson, Litigation Division, MC 175, (512) 239-0946 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 40px;">TCEQ Enforcement Coordinator: Ms. Danielle Porras, Waste Enforcement Section, MC 128, (512) 239-2602</p> <p style="margin-left: 40px;">TCEQ Regional Contact: Mr. Mike Brashear, Tyler Regional Office, MC R-5, (903) 535-5176</p> <p style="margin-left: 40px;">Respondent: Mr. Alejandro Romo, 17230 Imperial Valley Drive, Apartment 22, Houston, Texas 77060</p> <p style="margin-left: 40px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 11, 2008</p> <p>Date of NOE Relating to this Case: July 11, 2008</p> <p>Background Facts: The EDPRP was filed on December 18, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP.</p> <p>MSW: Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers [30 TEX. ADMIN. CODE § 328.56(d)(2)].</p>	<p>Total Assessed: \$5,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$5,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately cease accepting scrap tires at the Facility. 2. Within 60 days, obtain a scrap tire storage registration for the Facility. 3. Within 75 days, submit written certification demonstrating compliance.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	14-Jul-2008	Screening	25-Jul-2008	EPA Due	
	PCW	28-Jul-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Alejandro Romo
Reg. Ent. Ref. No.	RN105496913
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36267	No. of Violations	1
Docket No.	2008-1156-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	There are not any previous NOVs or orders during the last five years.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$52	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$5,000
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Screening Date 25-Jul-2008

Docket No. 2008-1156-MSW-E

PCW

Respondent Alejandro Romo

Policy Revision 2 (September 2002)

Case ID No. 36267

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105496913

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
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NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

There are not any previous NOV's or orders during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 25-Jul-2008		Docket No. 2008-1156-MSW-E		PCW																	
Respondent Alejandro Romo		<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 36267		<i>PCW Revision June 12, 2008</i>																			
Reg. Ent. Reference No. RN105496913																					
Media [Statute] Municipal Solid Waste																					
Enf. Coordinator Danielle Porras																					
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; width: 100%; padding: 5px;">30 Tex. Admin. Code § 328.56(d)(2)</div>																			
Violation Description		<div style="border: 1px solid black; width: 100%; padding: 5px;">Failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers, as documented during an investigation conducted on April 11, 2008. Specifically, there are approximately 3,000 scrap tires stored in piles at the Site.</div>																			
Base Penalty				<div style="border: 1px solid black; width: 100px; text-align: center;">\$10,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: center;">0%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																		
Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																		
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> </table>					Falsification	Major	Moderate	Minor		<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: center;">25%</div>						
	Falsification	Major	Moderate	Minor																	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																	
Matrix Notes	<div style="border: 1px solid black; width: 100%; padding: 5px;">100% of the rule requirement was not met.</div>																				
Adjustment				<div style="border: 1px solid black; width: 100px; text-align: center;">\$7,500</div>																	
				<div style="border: 1px solid black; width: 100px; text-align: center;">\$2,500</div>																	
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; width: 50px; text-align: center;">2</div>	105	Number of violation days																	
mark only one with an x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; width: 100px; text-align: center;">\$5,000</div>																		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																			
	quarterly	x																			
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																			
<div style="border: 1px solid black; width: 100%; padding: 5px;">Two quarterly events are recommended base on the April 11, 2008 investigation date to the July 25, 2008 screening date.</div>																					
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; width: 100px; text-align: center;">\$0</div>																	
		Before NOV	NOV to EDRP/Settlement Offer																		
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>																			
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>																			
N/A	x	(mark with x)																			
Notes	<div style="border: 1px solid black; width: 100%; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																				
Violation Subtotal				<div style="border: 1px solid black; width: 100px; text-align: center;">\$5,000</div>																	
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: center;">\$52</div>	Violation Final Penalty Total	<div style="border: 1px solid black; width: 100px; text-align: center;">\$5,000</div>																	
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; width: 100px; text-align: center;">\$5,000</div>																	

Economic Benefit Worksheet

Respondent Alejandro Romo
Case ID No. 36267
Reg. Ent. Reference No. RN105496913
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,000	11-Apr-2008	23-Apr-2009	1.03	\$52	n/a	\$52
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Site as a scrap tire storage facility. The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$52

Compliance History

Customer/Respondent/Owner-Operator: CN603344540 ROMO, ALEJANDRO Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105496913 ROMO PROPERTY Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s):
Location: NORTH SIDE OF SH 204, PONTA, TX, Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: July 15, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 15, 2003 to July 15, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Danielle Porras Phone: (512) 239-2602

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ALEJANDRO ROMO;
RN105496913**

§
§
§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-1156-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Alejandro Romo ("Mr. Romo").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Romo owns an unauthorized scrap tire storage facility located at the north side of State Highway 204 near Ponta, Cherokee County, Texas (the "Facility").
2. The Facility involves the management and/or disposal of used or scrap tires as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on April 11, 2008, a TCEQ Tyler Regional Office investigator documented that Mr. Romo failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers. Specifically, there are approximately 3,000 used scrap tires stored in piles at the Facility.
4. Mr. Romo received notice of the violation on or about July 16, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Alejandro Romo" (the "EDPRP") in the TCEQ Chief Clerk's office on December 18, 2008.

6. By letter dated December 18, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Romo with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Romo received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Romo received notice of the EDPRP, provided by the Executive Director. Mr. Romo failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Romo is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Romo failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(2).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Romo with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Mr. Romo failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Romo and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Romo for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Romo is assessed an administrative penalty in the amount of five thousand dollars (\$5,000.00) for violations of the Texas Health and Safety Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Romo's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Alejandro Romo; Docket No. 2008-1156-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Romo shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Romo shall cease accepting scrap tires at the Facility until the required TCEQ registration is obtained, in accordance with 30 TEX. ADMIN. CODE § 328.56(d)(2).
 - b. Within 60 days after the effective date of this Order, Mr. Romo shall obtain a scrap tire storage registration for the Facility from the TCEQ or remove all tires in excess of 500 to an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 328.56(d)(2).
 - c. Within 75 days after the effective date of this Order, Mr. Romo shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am

familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Romo shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Michael Brasher, Waste Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Romo. Mr. Romo is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Romo fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Romo's failure to comply is not a violation of this Order. Mr. Romo shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Romo shall notify the Executive Director within seven days after Mr. Romo becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Romo shall be made in writing to

the Executive Director. Extensions are not effective until Mr. Romo receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Romo if the Executive Director determines that Mr. Romo has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TOMMY TUCKER HENSON II

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Tommy Tucker Henson II. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Alejandro Romo" (the "EDPRP") was filed with the Office of the Chief Clerk on December 18, 2008.

The EDPRP was mailed to Mr. Romo at his last known address on December 18, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Romo received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

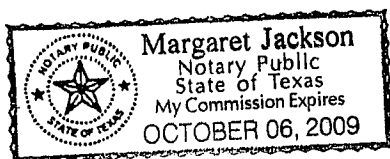
More than 20 days have elapsed since Mr. Romo received notice of the EDPRP. Mr. Romo failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

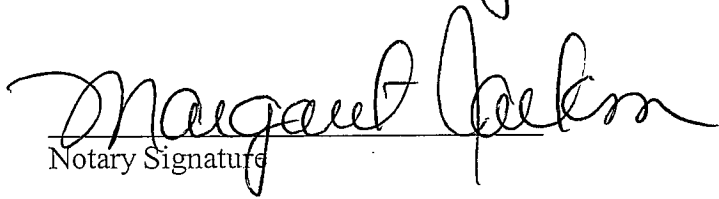


Tommy Tucker Henson II, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tommy Tucker Henson II, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 18 day of February, 2009.




Notary Signature